

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Dig Safe Notice No. 725

In Re: Over and Under Piping Contractors Incorporated, )  
Alleged Violation of June 30, 2010, as reported by )  
Comcast )

Order entered: 4/7/2011

**ORDER RE: NOTICE OF PROBABLE VIOLATION**

**Background**

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to Over and Under Piping Contractors Incorporated ("Respondent").
2. Incident Date: June 30, 2010
3. Incident Location: 311 Acorn Lane, Shelburne, VT
4. Name and Address of Company that Reported the Incident to the Department: Comcast, 676 Island Pond Road, Manchester, NH 03109
5. Date Incident Reported to Effected Utility: June 30, 2010
6. Date NOPV issued by Department: February 24, 2011 (#1861)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. Over and Under Piping made a notice of excavation activities for a gas line placement to Dig Safe System Inc. Comcast accurately located and marked its underground facilities in the area of the proposed excavation. The paint marks were not clearly visible at the time of excavation. The excavator lost the marks during the course of excavating and failed to call for a re-mark of the area. Over and Under Piping used a backhoe striking and damaging a Comcast cable. This cable was originally marked out but the marks were obscured during the excavation. This resulted in the Comcast cable being cut and a subsequent loss of service to 30 customers for 2 hours. Over and Under Piping notified Comcast of the damaged facility. The Department of Public Service issued 4 Notices of Probable Violation (NOPVs) to Over and Under Piping Contractors Incorporated during the 12 months preceding this incident."

8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7006b
9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of One Thousand Two Hundred Dollars (\$1,200.00).
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.<sup>1</sup>

### **Conclusion and Order**

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.<sup>2</sup>

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

Within thirty days of the date of this Order, Over and Under Piping Contractors Incorporated shall pay a civil penalty in the amount of One Thousand Two Hundred Dollars (\$1,200.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701.

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1. *See*, Respondent's filing of 3/14/11.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 7<sup>th</sup> day of April, 2011.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: April 7, 2011

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*